

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Maldjian & Fallon LLC
Brian M. Gaynor (BG 0387)
365 Broad Street, Third Floor
Red Bank, New Jersey 07710
Attorneys for Defendant,
Marcos Falchi

Cyber Champion International, Ltd.

Case No.: 07 CIV 9503

vs.

Carlos Falchi, Marcos Falchi, and
XYZ Companies

**DECLARATION OF MARCOS FALCHI IN SUPPORT OF DEFENDANT'S
MOTION TO DISMISS**

Marcos Falchi declares and says:

1. I am an individual, having a place of business at 320 East 42nd Street, Suite 905,
New York, New York 10017.

2. I am the owner of the trademark CHI BY FALCHI, as well as U.S. Trademark

Application Serial No. 78331576 for CHI BY FALCHI in International Class 18 for:

handbags; pocketbooks; purses; briefcase-type portfolios; key cases;
wallets; attache cases; tote bags; luggage; multi-purpose sport bags;
traveling trunks and carry-on bags; shoulder bags; garment bags
for traveling; umbrellas; parasols; walking sticks; whips; harnesses
and saddlery; trunks; satchels; clutch bags; rucksacks; travel trunks;
drawstring pouches; hat boxes for travel; leather and imitation bags
for shopping; cosmetic and vanity cases sold empty; document
cases; traveling cases; business card cases,

filed on November 21, 2003, and U.S. Trademark Application Serial No. 77057413 for
CHI BY FALCHI in International Class 25 for:

belts; blazers; blouses; boots; bottoms; caps; coats; dresses; ear
muffs; earbands; fleece pullovers; footwear; gloves; hats; head
wear; hosiery; jackets; kerchiefs; lingerie; loungewear; neckwear;
pants; pullovers; robes; scarves; shirts; shoes; shorts; skirts;
sleepwear; suits; suspenders; sweaters; swim wear; underwear;
vests,

filed on December 5, 2006.

3. I have been using the trademark CHI BY FALCHI in commerce since at least as
early as January 1, 2004.

4. I am the sole owner of the mark CHI BY FALCHI.

5. Upon information and belief, Co-Defendant Carlos Falchi entered into a
License Agreement with Plaintiff regarding the licensing and use of the marks CARLOS
FALCHI.

6. I was not and am not party to said License Agreement.

7. I have no privity to or business relationship with Plaintiff in any way.

8. I was never properly served with the Summons and Complaint.

9. Plaintiff delivered a copy of the Summons and Complaint to a temporary
("temp") secretary at the office of Co-Defendant Carlos Falchi, known as Design and
Development Labs, LLC, located at 260 West 39th Street, 7th Floor, New York, New York
10018.

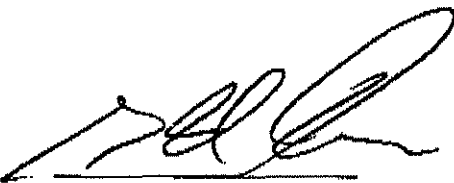
10. I did not authorize the temp to receive service of process on my behalf.

11. I also do not maintain a place of business at 260 West 39th Street, 7th Floor,
New York, New York 10018.

12. I was never served with the Summons and Complaint at my home
address.

Dated:

New York, NY
[city, country]
January *17* 2008



Marcos Falchi